

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

FISH & RICHARDSON P.C.
Attn. Pysher, Paul A.
P.O. Box 1022
Minneapolis, MN 55440-1022
ETATS-UNIS D'AMERIQUE

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL SEARCH REPORT AND
THE WRITTEN OPINION OF THE INTERNATIONAL
SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

| | |
|---|--|
| Date of mailing (day/month/year) 19/02/2009 | |
| Applicant's or agent's file reference 02103-778W01 | FOR FURTHER ACTION See paragraphs 1 and 4 below |
| International application No. PCT/US2008/065653 | International filing date (day/month/year) 03/06/2008 |
| Applicant BOSE CORPORATION | |

1. ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.

Filing of amendments and statement under Article 19:

The applicant is entitled, if he so wishes, to amend the claims of the International Application (see Rule 46):

When? The time limit for filing such amendments is normally two months from the date of transmittal of the International Search Report.

Where? Directly to the International Bureau of WIPO, 34 chemin des Colombettes
1211 Geneva 20, Switzerland, Facsimile No.: (41-22) 338.82.70

For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.

3. ☐ **With regard to the protest** against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

- ☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.
☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. Reminders

Shortly after the expiration of **18 months** from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

Within **19 months** from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase **until 30 months** from the priority date (in some Offices even later); otherwise, the applicant must, **within 20 months** from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of **30 months** (or later) will apply even if no demand is filed within 19 months.

See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the International Searching Authority



European Patent Office, P.B. 5818 Patentlaan 2
NL-2280 HV Rijswijk
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,
Fax: (+31-70) 340-3016

Authorized officer

Agnieszka Arias-Kraska

NOTES TO FORM PCT/ISA/220

These Notes are intended to give the basic instructions concerning the filing of amendments under article 19. The Notes are based on the requirements of the Patent Cooperation Treaty, the Regulations and the Administrative Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the *PCT Applicant's Guide*, a publication of WIPO.

In these Notes, "Article", "Rule", and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions, respectively.

INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report and the written opinion of the International Searching Authority, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g. the applicant wants the latter to be published for the purposes of provisional protection or has another reason for amending the claims before international publication. Furthermore, it should be emphasized that provisional protection is available in some States only (see *PCT Applicant's Guide*, Volume I/A, Annexes B1 and B2).

The attention of the applicant is drawn to the fact that amendments to the claims under Article 19 are not allowed where the International Searching Authority has declared, under Article 17(2), that no international search report would be established (see *PCT Applicant's Guide*, Volume I/A, paragraph 296).

What parts of the international application may be amended?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

When?

Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

Where not to file the amendments?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been/is filed, see below.

How?

Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

What documents must/may accompany the amendments?

Letter (Section 205(b)):

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.

NOTES TO FORM PCT/ISA/220 (continued)

The letter must indicate the differences between the claims as filed and the claims as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether

- (i) the claim is unchanged;
- (ii) the claim is cancelled;
- (iii) the claim is new;
- (iv) the claim replaces one or more claims as filed;
- (v) the claim is the result of the division of a claim as filed.

The following examples illustrate the manner in which amendments must be explained in the accompanying letter:

1. [Where originally there were 48 claims and after amendment of some claims there are 51]:
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers; claims 30, 33 and 36 unchanged; new claims 49 to 51 added."
2. [Where originally there were 15 claims and after amendment of all claims there are 11]:
"Claims 1 to 15 replaced by amended claims 1 to 11."
3. [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or
"Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."
4. [Where various kinds of amendments are made]:
"Claims 1–10 unchanged; claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

"Statement under article 19(1)" (Rule 46.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)).

The statement will be published with the international application and the amended claims.

It must be in the language in which the international application is to be published.

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

Consequence if a demand for international preliminary examination has already been filed

If, at the time of filing any amendments and any accompanying statement, under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the time of filing the amendments (and any statement) with the International Bureau, also file with the International Preliminary Examining Authority a copy of such amendments (and of any statement) and, where required, a translation of such amendments for the procedure before that Authority (see Rules 55.3(a) and 62.2, first sentence). For further information, see the Notes to the demand form (PCT/IPEA/401).

If a demand for international preliminary examination is made, the written opinion of the International Searching Authority will, except in certain cases where the International Preliminary Examining Authority did not act as International Searching Authority and where it has notified the International Bureau under Rule 66.1bis(b), be considered to be a written opinion of the International Preliminary Examining Authority. If a demand is made, the applicant may submit to the International Preliminary Examining Authority a reply to the written opinion together, where appropriate, with amendments before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later (Rule 43bis.1(c)).

Consequence with regard to translation of the international application for entry into the national phase

The applicant's attention is drawn to the fact that, upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see the *PCT Applicant's Guide*, Volume II.

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

| | | |
|---|--|---|
| Applicant's or agent's file reference 02103-778WO1 | FOR FURTHER ACTION see Form PCT/ISA/220 as well as, where applicable, item 5 below. | |
| International application No. PCT/US2008/065653 | International filing date (day/month/year) 03/06/2008 | (Earliest) Priority Date (day/month/year) 06/07/2007 |
| Applicant BOSE CORPORATION | | |

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 6 sheets.

☐ It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

a. With regard to the **language**, the international search was carried out on the basis of:

- ☒ the international application in the language in which it was filed
☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b))

b. ☐ This international search report has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43.6bis(a)).

c. ☐ With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, see Box No. I.

2. ☐ **Certain claims were found unsearchable** (See Box No. II)

3. ☒ **Unity of invention is lacking** (see Box No. III)

4. With regard to the **title**,

- ☒ the text is approved as submitted by the applicant
☐ the text has been established by this Authority to read as follows:

5. With regard to the **abstract**,

- ☒ the text is approved as submitted by the applicant
☐ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority

6. With regard to the **drawings**,

a. the figure of the **drawings** to be published with the abstract is Figure No. 9, 4, 1

- ☐ as suggested by the applicant
☐ as selected by this Authority, because the applicant failed to suggest a figure
☒ as selected by this Authority, because this figure better characterizes the invention

b. ☐ none of the figures is to be published with the abstract

INTERNATIONAL SEARCH REPORT

International application No

PCT/US2008/065653

A. CLASSIFICATION OF SUBJECT MATTER

INV. G11B27/34

ADD. G11B27/10

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

G11B G06F

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal, WPI Data

C. DOCUMENTS CONSIDERED TO BE RELEVANT

| Category* | Citation of document, with indication, where appropriate, of the relevant passages | Relevant to claim No. |
|-----------|---|-----------------------|
| X | WO 02/095611 A (KONINKL PHILIPS ELECTRONICS NV [NL]; BUIL VINCENTIUS P [NL]) 28 November 2002 (2002-11-28) | 1-6,9 |
| A | figures 3-8 page 2, lines 28-33 page 3, lines 1-5 page 4, line 13 - page 6, line 3 | 10,11 |
| X | EP 1 755 018 A (SONY CORP [JP]) 21 February 2007 (2007-02-21) figures 5,7,9 paragraphs [0069] - [0074] | 1-3,5,6, 9 |
| | -/-- | |

☒ Further documents are listed in the continuation of Box C.

☒ See patent family annex.

* Special categories of cited documents :

A document defining the general state of the art which is not considered to be of particular relevance

E earlier document but published on or after the international filing date

L document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

O document referring to an oral disclosure, use, exhibition or other means

P document published prior to the international filing date but later than the priority date claimed

T later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

X document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

Y document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

G document member of the same patent family

Date of the actual completion of the international search

13 October 2008

Date of mailing of the international search report

19/02/2009

Name and mailing address of the ISA/

European Patent Office, P.B. 5818 Patentlaan 2
NL - 2280 HV Rijswijk
Tel. (+31-70) 340-2040.
Fax: (+31-70) 340-3016

Authorized officer

Bruma, Cezar

INTERNATIONAL SEARCH REPORT

International application No

PCT/US2008/065653

C(Continuation). DOCUMENTS CONSIDERED TO BE RELEVANT

| Category* | Citation of document, with indication, where appropriate, of the relevant passages | Relevant to claim No. |
|-----------|---|-----------------------|
| A | EP 1 211 690 A (PIONEER CORP [JP]) 5 June 2002 (2002-06-05) paragraphs [0041], [0042], [0052], [0060] figure 6a | 1-11 |
| A | EP 1 659 588 A (SONY CORP [JP]) 24 May 2006 (2006-05-24) paragraphs [0116] - [0129] | 1-11 |
| X | EP 1 548 740 A (BOSE CORP [US]) 29 June 2005 (2005-06-29) figure 26 paragraphs [0050], [0141] - [0155], [0177], [0189] - [0198] | 1,5,7-9 |
| X | US 2003/236582 A1 (ZAMIR LEE [US] ET AL) 25 December 2003 (2003-12-25) cited in the application figure 26 paragraphs [0110], [0193] | 1,5,7-9 |
| X | US 2004/225519 A1 (MARTIN KEITH D [US]) 11 November 2004 (2004-11-11) cited in the application abstract | 1,5,7-9 |
| A | US 2005/146444 A1 (ALLEN WILLIAM A [US] ET AL) 7 July 2005 (2005-07-07) cited in the application abstract | 1 |
| X | US 2005/021470 A1 (MARTIN KEITH D [US] ET AL) 27 January 2005 (2005-01-27) cited in the application family of EP1548740 abstract figure 26 | 1,5,7-9 |

INTERNATIONAL SEARCH REPORT

International application No.
PCT/US2008/065653

Box No. II Observations where certain claims were found unsearchable (Continuation of item 2 of first sheet)

This international search report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☐ Claims Nos.:
because they relate to subject matter not required to be searched by this Authority, namely:
2. ☐ Claims Nos.:
because they relate to parts of the international application that do not comply with the prescribed requirements to such an extent that no meaningful international search can be carried out, specifically:
3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box No. III Observations where unity of invention is lacking (Continuation of item 3 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

see additional sheet

1. ☐ As all required additional search fees were timely paid by the applicant, this international search report covers allsearchable claims.
2. ☐ As all searchable claims could be searched without effort justifying an additional fees, this Authority did not invite payment of additional fees.
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this international search reportcovers only those claims for which fees were paid, specifically claims Nos.:
4. ☒ No required additional search fees were timely paid by the applicant. Consequently, this international search report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

1- 11

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest and, where applicable, the payment of a protest fee.
- ☐ The additional search fees were accompanied by the applicant's protest but the applicable protest fee was not paid within the time limit specified in the invitation.
- ☐ No protest accompanied the payment of additional search fees.

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

This International Searching Authority found multiple (groups of) inventions in this international application, as follows:

1. claims: 1-11

Method of providing an indication (on a GUI) of the state (freshness or amount) of music content, where the state is updated based on the user's interaction with the content;

2. claims: 12-17

Method of selection on a user interface of a track from a plurality of tracks represented as a plurality of cells arranged on a two-dimensional grid (on the graphic user interface), where cells/tracks along each line in a first direction have a same attribute value (corresponding to same prescribed criteria), while cells/tracks along lines in a second direction have different attribute values (do not fit a same prescribed criteria);

3. claims: 18-19

Method of creating a user profile in a player, starting from a log file containing user reactions to listening to the tracks.

INTERNATIONAL SEARCH REPORT

Information on patent family members

International application No

PCT/US2008/065653

| Patent document cited in search report | | Publication date | Patent family member(s) | Publication date |
|---|----|---------------------|---|--|
| WO 02095611 | A | 28-11-2002 | CN 1511292 A JP 2005500637 T US 2005102186 A1 | 07-07-2004 06-01-2005 12-05-2005 |
| EP 1755018 | A | 21-02-2007 | CN 1908884 A JP 2007042173 A US 2007027926 A1 | 07-02-2007 15-02-2007 01-02-2007 |
| EP 1211690 | A | 05-06-2002 | JP 3827522 B2 JP 2002150664 A US 2002057609 A1 | 27-09-2006 24-05-2002 16-05-2002 |
| EP 1659588 | A | 24-05-2006 | CN 1801377 A JP 2006148283 A KR 20060055405 A US 2006120691 A1 | 12-07-2006 08-06-2006 23-05-2006 08-06-2006 |
| EP 1548740 | A | 29-06-2005 | CN 1637743 A JP 2005243214 A | 13-07-2005 08-09-2005 |
| US 2003236582 | A1 | 25-12-2003 | CN 1471098 A EP 1418677 A2 JP 2004026150 A US 2004225519 A1 | 28-01-2004 12-05-2004 29-01-2004 11-11-2004 |
| US 2004225519 | A1 | 11-11-2004 | CN 1471098 A EP 1418677 A2 JP 2004026150 A US 2003236582 A1 | 28-01-2004 12-05-2004 29-01-2004 25-12-2003 |
| US 2005146444 | A1 | 07-07-2005 | CN 1637787 A EP 1553540 A2 JP 2005198315 A | 13-07-2005 13-07-2005 21-07-2005 |
| US 2005021470 | A1 | 27-01-2005 | NONE | |

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/US2008/065653

International filing date (day/month/year)
03.06.2008

Priority date (day/month/year)
06.07.2007

International Patent Classification (IPC) or both national classification and IPC

INV. G11B27/34
ADD. G11B27/10

Applicant

BOSE CORPORATION

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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Date of completion of
this opinion

see form
PCT/ISA/210

Authorized Officer

Bruma, Cezar

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2008/065653

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of:
 - ☒ the international application in the language in which it was filed
 - ☐ a translation of the international application into , which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1 (b)).
2. ☐ This opinion has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43bis.1(a))
3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ on paper
 - ☐ in electronic form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in electronic form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
4. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
5. Additional comments:

Box No. II Priority

1. ☒ The validity of the priority claim has not been considered because the International Searching Authority does not have in its possession a copy of the earlier application whose priority has been claimed or, where required, a translation of that earlier application. This opinion has nevertheless been established on the assumption that the relevant date (Rules 43bis.1 and 64.1) is the claimed priority date.
2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2008/065653

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of

☐ the entire international application

☒ claims Nos. 12-19

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international search (*specify*):

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed (*specify*):

☒ no international search report has been established for the whole application or for said claims Nos. 12-19

☐ a meaningful opinion could not be formed without the sequence listing; the applicant did not, within the prescribed time limit:

☐ furnish a sequence listing on paper complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.

☐ furnish a sequence listing in electronic form complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.

☐ pay the required late furnishing fee for the furnishing of a sequence listing in response to an invitation under Rules 13ter.1(a) or (b).

☐ a meaningful opinion could not be formed without the tables related to the sequence listings; the applicant did not, within the prescribed time limit, furnish such tables in electronic form complying with the technical requirements provided for in Annex C-bis of the Administrative Instructions, and such tables were not available to the International Searching Authority in a form and manner acceptable to it.

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in electronic form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

☐ See Supplemental Box for further details

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2008/065653

Box No. IV Lack of unity of invention

1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees, the applicant has, within the applicable time limit:
- ☐ paid additional fees
 - ☐ paid additional fees under protest and, where applicable, the protest fee
 - ☐ paid additional fees under protest but the applicable protest fee was not paid
 - ☒ not paid additional fees
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
- ☐ complied with
 - ☒ not complied with for the following reasons:
see separate sheet
4. Consequently, this report has been established in respect of the following parts of the international application:
- ☐ all parts.
 - ☒ the parts relating to claims Nos. 1-11

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | |
|-------------------------------|-------------|----------------------|
| Novelty (N) | Yes: Claims | <u>7,8,10,11</u> |
| | No: Claims | <u>1,2,3,4,5,6,9</u> |
| Inventive step (IS) | Yes: Claims | |
| | No: Claims | <u>1-11</u> |
| Industrial applicability (IA) | Yes: Claims | <u>1-11</u> |
| | No: Claims | |

2. Citations and explanations

see separate sheet

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2008/065653

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

1. Reference is made to the following documents; the numbering will be adhered to in the rest of the procedure:

D1: WO 02/095611 A (KONINKL PHILIPS ELECTRONICS NV [NL]; BUIL
VINCENTIUS P [NL]) 28 November 2002 (2002-11-28)

Re Item IV.

Lack of unity of invention

2. The application does not comply with the requirements of unity of invention set forth in Rule 13 PCT. The application relates to three inventions or groups of inventions which are **not** so linked as to form a single general inventive concept.
- 2.1 As far as the claims can be understood and with due consideration to the description, the separate inventions/groups of inventions are:

Invention 1: claim 1: method of providing an indication (on a GUI) of the state (freshness or amount) of music content, where the state is updated based on the user's interaction with the content;

Invention 2: claim 12: medium with instructions to implement a method of selection on a user interface of a track from a plurality of tracks represented as a plurality of cells arranged on a two-dimensional grid (on the graphic user interface), where cells/tracks along each line in a first direction have a same attribute value (corresponding to same prescribed criteria), while cells/tracks along lines in a second direction have different attribute values (do not fit a same prescribed criteria);

Invention 3: claims 18: method of creating a user profile in a player, starting from a log file containing user reactions to listening to the tracks.

- 2.2 Said inventions are not so linked as to form a single general inventive concept (Rule 13.1 PCT), the reasoning being as follows:

- i. The independent claims are: 1, 12 and 18.
- ii. The set of technical features that are same or corresponding in all the independent claims, contains **only one** technical feature: "content player". This feature is considered as being implicit in each of said claims.

Claims 1 and 12 entail, among other, displaying some information on a graphic user interface.

In claim 1, this information indicates some characteristic of a body of content, as freshness or amount, which matches user interaction with the content (possibly user preferences).

In claim 12, this information is a classification of available tracks.

Claim 18 entails creating a user profile.

Therefore all independent claims have as same or corresponding features **only** the feature "content player", which is considered to be implicit to each of them. Or, in other words, the only common characteristic of all the independent claims is that they are related to a *content player*.

- iii. The single, i.e. common, general concept formulated for all independent claims is: *by using a content player, provide some service to the user* (i.e. display some particular information on a graphic user interface, OR enable selection of tracks, OR create a user profile).

Said single general concept is formulated based on said technical feature common to all claims.

The formulation of said single general concept is considered to be the *most restrictive possible*, i.e. not adding any subject-matter beyond that defined by said same technical feature.

iv. The objectives of the three claimed inventions are obvious, and clearly not related, namely:

- to provide an indication of a characteristic of a body of content, as freshness or amount, that match user interaction with the content;
- to select tracks to be reproduced; and
- to create a user profile.

v. Music content players were well-known in the art at the priority date of the present application. In particular from D1, an audio player is known, which obviously is capable of providing services to the user, e.g. displaying information regarding the tracks, or selecting tracks for playback.

Hence the single general concept formulated above in paragraph 2.2.iii is known from prior art and therefore **not inventive**. Hence there is **no single general inventive concept**.

vi. Since there is no single general inventive concept, the requirements of Rule 13.1 PCT are not met. **The application lacks unity of invention.**

vii. Only the first invention mentioned above under paragraph 2.1 has been searched.

Re Item V.

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

This Written Opinion is restricted to claims 1-11, i.e. the only claims covered by the International Search Report.

3. INDEPENDENT CLAIMS

Notwithstanding the lack of clarity and support indicated below in paragraph 5 of this Written Opinion, the present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1, as far as it can be understood on the basis of the description, is **not new** in the sense of Article 33(2) PCT.

3.1 Document D1 discloses (the references in parentheses applying to this document):

A method of providing an indication (fig. 3) of a state (amount - items 370 in fig. 3 and lines 30-33 of page 5 of the description: "dynamic update of the stack of items 370 so that it will meet the new criteria"; see also "freshness" and "popularity" in fig. 3 and on lines 28-33 of page 2, lines 9-13 of page 5, lines 13-17 of page 4 of the description) of a body of content, the body of content including at least a portion of a track (items 370 in fig. 3), the indication being updated based on a user's interaction with the content ("dynamic" on lines 30-33 of page 5; "how frequent and how recent an item was accessed" on lines 13-17 of page 4 indicates interaction with the content), the body of content matching some user preferences (see the two "sliders" 310/320 and 350/360 in fig. 3 and in the paragraph between line 16 of page 5 and line 3 of page 6; "slider" 310/320 in fig. 3 sets the user preferences, e.g. the "popularity".)

Therefore the subject-matter of claim 1 is **not new** in the sense of Article 33(2) PCT.

4. DEPENDENT CLAIMS

The dependent claims 2-11 add minor limiting features to the method defined in the independent claim 1 all of which, insofar as they are not explicitly disclosed in D1, relate to routine measures to be normally expected of the skilled person. Thus these claims, to the extent that they are not lacking novelty (Article 33(2) PCT), lack an inventive step (Article 33(3) PCT), and therefore the requirements of Article 33(1) PCT are not met.

Re Item VIII.

Lack of clarity and/or support in the description.

5. The application does not comply with the requirements of clarity and support of the claims set forth in Art. 6 PCT.
- 5.1 The term "state" used in claim 1 on line 2 of page 1 of the claims and defined in a first instance as "of a body of content" is unclear and leaves the reader in doubt as to the meaning of the technical feature(s) to which it refers, thereby rendering the definition of the subject-matter of said claim unclear (Article 6 PCT).
- 5.2 Claim 1 further re-defines said "state" on lines 4-5 of page 1 of the claims as "comprising information about the user's preferences with respect to the body of content.", which is something else than a state as such of a "body of content", since some "user's preferences" cannot be considered as a state as such of some "body of content".
- 5.3 When turning to the description for clarification and support, the skilled person finds that the embodiment of the invention described in the section between line 19 of page 10 and line 15 of page 11 of the description, which is believed to be the base for claim 1, **does not fall within the scope of claim 1**, because the indicator showed in said embodiment does not show user's preferences as such with respect to the body of content, but "how much of a category of music (such as those tracks that match the user preferences) remains on the device that has not yet been played" on lines 23-25 of page 10 of the description.
- 5.4 This inconsistency between the claims and the description leads to doubt concerning the matter for which protection is sought, thereby **rendering the claims unclear, Article 6 PCT**.

Possible steps after receipt of the international search report (ISR) and written opinion of the International Searching Authority (WO-ISA)

| | |
|---|---|
| General information | For all international applications filed on or after 01/01/2004 the competent ISA will establish an ISR. It is accompanied by the WO-ISA. Unlike the former written opinion of the IPEA (Rule 66.2 PCT), the WO-ISA is not meant to be responded to, but to be taken into consideration for further procedural steps. This document explains about the possibilities. |
| Amending claims under Art. 19 PCT | Within 2 months after the date of mailing of the ISR and the WO-ISA the applicant may file amended claims under Art. 19 PCT directly with the International Bureau of WIPO. The PCT reform of 2004 did not change this procedure. For further information please see Rule 46 PCT as well as form PCT/ISA/220 and the corresponding Notes to form PCT/ISA/220. |
| Filing a demand for international preliminary examination | <p>In principle, the WO-ISA will be considered as the written opinion of the IPEA. This should, in many cases, make it unnecessary to file a demand for international preliminary examination. If the applicant nevertheless wishes to file a demand this must be done before expiry of 3 months after the date of mailing of the ISR/ WO-ISA or 22 months after priority date, whichever expires later (Rule 54bis PCT). Amendments under Art. 34 PCT can be filed with the IPEA as before, normally at the same time as filing the demand (Rule 66.1 (b) PCT).</p> <p>If a demand for international preliminary examination is filed and no comments/amendments have been received the WO-ISA will be transformed by the IPEA into an IPRP (International Preliminary Report on Patentability) which would merely reflect the content of the WO-ISA. The demand can still be withdrawn (Art. 37 PCT).</p> |
| Filing informal comments | After receipt of the ISR/WO-ISA the applicant may file informal comments on the WO-ISA directly with the International Bureau of WIPO. These will be communicated to the designated Offices together with the IPRP (International Preliminary Report on Patentability) at 30 months from the priority date. Please also refer to the next box. |
| End of the international phase | At the end of the international phase the International Bureau of WIPO will transform the WO-ISA or, if a demand was filed, the written opinion of the IPEA into the IPRP, which will then be transmitted together with possible informal comments to the designated Offices. The IPRP replaces the former IPER (international preliminary examination report). |
| Relevant PCT Rules and more information | Rule 43 PCT, Rule 43bis PCT, Rule 44 PCT, Rule 44bis PCT, PCT Newsletter 12/2003, OJ 11/2003, OJ 12/2003 |